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 9 NETAPP, INC.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

13 NETWORK APPLIANCE, INC.

Case No. 3:07-CV-06053-EDL

14 Plaintiff-Counterclaim Defendant,

**STIPULATION AND [PROPOSED] ORDER
 EXTENDING DISCOVERY DEADLINE FOR
 PATENTS NOT SELECTED FOR CLAIM
 CONSTRUCTION**

15 v.
 16 SUN MICROSYSTEMS, INC.

17
 18 Defendant-Counterclaim Plaintiff.

19 As reflected in the parties' June 16, 2008 Joint Report on Claim Construction (Docket No.
 20 79), the Court directed the parties to select three asserted NetApp patents and five asserted Sun
 21 patents for claim construction at this stage of the case. In light of this, the parties agree that the
 22 fact discovery deadline (and all dates triggered therefrom) for non-selected patents, which are not
 23 proceeding through claim construction at this stage, should be vacated. Accordingly, the parties
 24 hereby stipulate to and jointly request that the Court vacate the January 16, 2009 deadline for fact
 25 discovery with respect to the following patents-in-suit: U.S. Patent Nos. 7,174,352, 7,162,486,
 26 7,133,964, 5,403,639, 5,410,667, 5,761,662, 5,941,954, 6,356,984, 6,591,303, 6,983,343, and
 27 6,581,185.

1
2 Dated: September 4, 2008

3 DLA PIPER US LLP

4 By: /s/ Christine K. Corbett
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9 Attorneys for
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10 Dated: September 4, 2008

11 WEIL, GOTSHAL & MANGES LLP

12 By: /s/ Jill J. Ho
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16 Attorneys for
NetApp, Inc.

18 **[PROPOSED] ORDER**

19 Having considered the parties' stipulation, the joint request for relief is **GRANTED**. The
20 January 16, 2009 deadline for fact discovery (and all dates triggered therefrom) is hereby vacated
21 with respect to the following patents-in-suit: U.S. Patent Nos. 7,174,352, 7,162,486, 7,133,964,
22 5,403,639, 5,410,667, 5,761,662, 5,941,954, 6,356,984, 6,591,303, 6,983,343, and 6,581,185.

23 **IT IS SO ORDERED.**

24 Dated: September ___, 2008

26 UNITED STATES MAGISTRATE JUDGE
27 ELIZABETH D. LAPORTE